

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES-GENERAL**

Case No.: CV 13-8492-PLA

Date: July 11, 2018

Title: Ysidro Moreno Jr. v. Nancy Berryhill

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PRESENT: THE HONORABLE PAUL L. ABRAMS  
UNITED STATES MAGISTRATE JUDGE

Christianna Howard  
Deputy Clerk

N/A  
Court Reporter / Recorder

N/A  
Tape No.

ATTORNEYS PRESENT FOR PLAINTIFF:

NONE

ATTORNEYS PRESENT FOR DEFENDANT(S):

NONE

PROCEEDINGS: **(IN CHAMBERS)**

On June 26, 2018, plaintiff's counsel ("Counsel") filed a Motion for Attorney Fees pursuant to 42 U.S.C. § 406(b) ("Motion" or "Mot."). (ECF No. 26). On July 3, 2018, defendant filed a Response to the Motion, taking no position on the reasonableness of the request. (ECF No. 27).

Counsel seeks \$33,463.50 for representing plaintiff and his child, with a credit to plaintiff for the fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), previously paid in the amount of \$1,800, for a net fee of \$31,663.50. (Mot. at 1). Counsel's itemized billing reflects that a total of 18.85 hours of attorney and paralegal time was spent representing plaintiff before this Court. (Mot. at 8 & Ex. 15). This includes 6.35 hours of attorney time and 12.5 hours of paralegal time (8 of which were spent in preparing the Motion). Counsel argues that the amount requested, based on the combined total hours, represents a "hypothetical hourly rate of \$1,775," and is "reasonable" and does not constitute a "windfall" under relevant case authority.<sup>1</sup> (Mot. at 6-8).

However, when the 12.5 paralegal hours are considered separately, and calculated at Counsel's firm hourly rate for each of the three paralegals who worked on this matter (which amounts to a total of approximately \$2,090.50 (see Mot. Ex. 15)), the rate for Counsel's 6.5 hours amounts to approximately \$4,826.62 per hour (( $\$33,463.50 - \$2,090.50$ ) / 6.5).

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<sup>1</sup> The Court may not adopt these calculations, as they do not appear to fully correspond to the hours and rates presented in the billing statement.

Based on the foregoing, **no later than July 18, 2018**, Counsel is ordered to show cause why the fee requested by Counsel is reasonable under 42 U.S.C. § 406(b) and Gisbrecht v. Barnhart, 535 U.S. 789, 796, 122 S. Ct. 1817, 1252 L. Ed. 2d 996 (2002) and its progeny, and/or that it does not constitute a windfall under Crawford v. v. Astrue, 586 F.3d 1142, 1148 (9th Cir. 2009) (en banc) and its progeny.

cc: Ysidro Moreno Jr.  
Bill LaTour, Esq.  
Jeffrey T. Chen, SAUSA

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